

IN RE: PETITION FOR ZONING VARIANCE
W/S 51st Street, 144.7' N of
German Hill Road
(724 51st Street)
12th Election District
7th Councilmanic District
Stephen P. Brown, et ux
Petitioners

BEFORE THE
DEPUTY ZONING COMMISSIONER
OF BALTIMORE COUNTY
Case No. 90-2-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a building lot with a minimum width of 50 feet in lieu of the required 55 feet as more particularly described on Petitioner's Exhibit 1.

The Petitioners appeared and testified, appearing as Protestants in the matter were Frank J. Tyber, John M. Gummer, Joseph Leshko, and Thelma Wodciewski.

Testimony indicated that the subject property, known as 724 51st Street, consists of 6,250 sq.ft. zoned D.R. 5.5 and is currently unimproved. Petitioners purchased the subject property, which contains two 25-foot wide lots, in 1973. Testimony indicated Petitioners are desirous of constructing a single family dwelling on the property and can do so without requesting any additional variances to the front, rear or side yard setback requirements. Petitioners argued that the granting of the variance will not result in any detriment to the health, safety or general welfare of the surrounding community and is in keeping with the lot size and character of adjoining properties in the area.

The Protestants testified they are opposed to granting the relief requested as they are concerned about the possible conversion of this property from residential use to a commercial use at a later time. Further testimony revealed that Petitioners own adjoining property, which

fronts German Hill Road, is zoned B.L. and is improved with a dwelling currently being rented by Petitioners to tenants. The Protestants clearly stated they have no objections to the use of the property on 51st Street for residential purposes.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this 14th day of August, 1989 that the Petition for Zoning Variance to permit a building lot with a minimum width of 50 feet in

lieu of the required 55 feet, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restrictions which are conditions precedent to the relief granted:

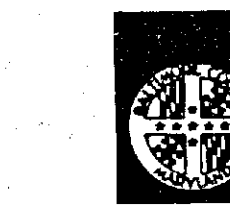
- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.
- 2) The granting of the relief requested is limited to Petitioners constructing a single family dwelling on the subject property, without the need for additional variances, within two years of the date of this Order.
- 3) Petitioners and/or future property owners shall not request any additional variances to the front, side or rear yard setback requirements for the subject property.
- 4) Prior to the issuance of any permits, Petitioners shall prepare and submit for approval by the Baltimore County Landscape Planner a landscaping plan for the property, which, at a minimum, screens the residential property line from the adjoining commercial uses in the B.L. zone. Said landscaping shall be a combination of trees and shrubs in addition to any fencing Petitioners voluntarily decide to place on the adjoining B.L. zoned lot. A copy of the approved plan shall be submitted to the Deputy Zoning Commissioner for final approval prior to the issuance of any permits.
- 5) Petitioners shall be responsible for maintaining the landscaping required as set forth in Restriction 4 above.

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:bjs

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Townson, Maryland 21204
(301) 887-3333
J. Robert Hain
Zoning Commissioner

August 24, 1989



Dennis F. Rasmussen
County Executive

S. Eric DiNenna, Esquire
409 Washington Avenue, Suite 600
Townson, Maryland 21204

RE: PETITION FOR ZONING VARIANCE
W/S 51st Street, 144.7' N of German Hill Road
(7100 German Hill Road)
12th Election District - 7th Councilmanic District
Stephen E. Brown, et ux - Petitioners
Case No. 90-2-A

Dear Mr. DiNenna:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

ANN:bjs

cc: Mr. Frank J. Tyber
1203 Bethlehem Avenue, Baltimore, Md. 21222

Mr. John M. Gummer
7000 German Hill Road, Baltimore, Md. 21222

Mr. Joseph Leshko
67 Northship Road, Baltimore, Md. 21222

Ms. Thelma Wodciewski
1505 Delvale Avenue, Baltimore, Md. 21222

People's Counsel

File

PETITION FOR ZONING VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and is a part hereof, hereby petition for a variance from Section 304 to allow a 50-foot lot in lieu of a 55-foot lot.

1902, 3, 5, 1. To allow a buildable lot with a minimum width of 50 ft. in lieu of the required 55 ft.

of the Zoning Regulations of Baltimore County to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

1. Said lot that is claimed does not comply with Section 304.
2. As it stands property use is denied unless variance is obtained.
3. All property on 51st Street and most of property on adjoining streets have been developed on 50' lots.
4. The development was subdivided in 1920 and dwellings were built on 50' lots since then. No purchased in 1973.
5. Strict compliance would be burdensome for taxes would be paid on lots with no real use. (see attached sheet) for additional Reasons)

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:	Legal Owner(s):
(Type or Print Name)	Stephen P. Brown
Signature	(Type or Print Name)
Address	Thelma Wodciewski
City and State	(Type or Print Name)
Attorney for Petitioner:	Signature
S. Eric DiNenna, Esquire	7100 German Hill Road, 285-3312
(Type or Print Name)	Address
Signature	Dundalk, MD 21222
P.O. Box 10508	City and State
Towson, MD 21285-0508	Name, address and phone number of legal owner, contract purchaser or representative to be contacted
City and State	S. Eric DiNenna, Esquire
Attorney's Telephone No. 26-6820	P.O. Box 10508
	Towson, MD 21285-0508, 296-6820
	Address
	Phone No.

ORDERED BY The Zoning Commissioner of Baltimore County, this 2 day

of May 1989, that the subject matter of this petition be advertised, as

required by the Zoning Law of Baltimore County, in two newspapers of general circulation through

out Baltimore County, that property be posted, and that the public hearing be held before the Zoning

Commissioner of Baltimore County in Room 106, County Office Building, in Towson, Baltimore

County, on the 18 day of July, 1989, at 2 o'clock

P.M.

J. Robert Hain

Zoning Commissioner of Baltimore County

ESTIMATED LENGTH OF HEARING - 1/2 hour

AVAILABLE FOR HEARING - MON. / TUES. / WED. - NEXT TWO MONTHS

ALL OTHERS - DATE 4-18-89

REVISED BY: DATE 4-18-89

FRANK S. LEE

Registered Land Surveyor

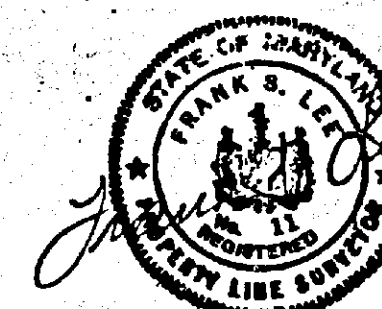
1277 NEIGHBORS AVE. - BALTIMORE, MD. 21237

March 13, 1989

12th District Baltimore County, Maryland

Beginning for the same on the west side of 51st Street at the distance of 144.70 feet measured northerly along the west side of 51st Street from the north side of German Hill Road and known as lots 338 and 339 as laid out and shown on the plat of Harbor View, said plat being recorded among the land records of Baltimore County in Plate Book 5 folio 80.

Containing 6250 square feet of land more or less.



Petition for Zoning Variance * IN THE
W/S 51st Street, 144.7' N of * COUNTY BOARD OF APPEALS
German Hill Road, 724 51st *
Street, 12th Election *
District - 7th Councilmanic * FOR
Petitioner(s): Stephen P. * BALTIMORE COUNTY
Brown, et ux * CASE NO.: 90-2-A

MOTION STRIKING APPEARANCE

Please strike the appearance of S. Eric DiNenna as attorney for the Petitioners, Stephen P. Brown, et ux.

S. ERIC DINENNA
DINENNA, MANN & BRESCHI
P.O. Box 10508
Towson, Maryland 21265-0508
(301) 296-6820

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 18 day of July, 1989, a copy of the foregoing Motion Striking Appearance was mailed, postage prepaid, to Mr. Stephen Brown, Petitioner, 7100 German Hill Road, Dundalk, Maryland 21222.

S. ERIC DINENNA

RECEIVED

JUL 18 1989

ZONING OFFICE

Baltimore County
The Department
300 York Road
Towson, Maryland 21204-5500
(301) 887-4500

Paul H. Baker,
Chair

J. Robert Haines
Zoning Commissioner
Office of Planning and Zoning
Baltimore County Office Building
Towson, MD 21204

Donald P. Haines
County Engineer

RE: Property Owner: Stephen P. Brown, et ux

Location: WS 51st Street, 144.7' N of German Hill Road
(4724 51st Street)

Item No. 452-2 Zoning Agenda: May 2, 1989

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1988 edition prior to occupancy.

REVIEWER: *[Signature]* Noted and Approved: *[Signature]*
Special Inspection Division Fire Prevention Bureau

RECEIVED
MAY 1 1989
ZONING OFFICE

BALTIMORE COUNTY, MARYLAND
INTEROFFICE CORRESPONDENCE

TO: Zoning Advisory Committee DATE: June 12, 1989

FROM: Robert W. Bowling, P.E.

RE: Zoning Advisory Committee Meeting
for May 2, 1989

The Development Engineering Division has reviewed the subject zoning items and we have no comments for items 449, 450, 451, 452, 453, 454, 455, 456, 457, 458.

For items 451 and 453 the previous County Review Group comments are still valid.

Comments are attached for item 458.

[Signature]
ROBERT W. BOWLING, P.E., Chief
Development Engineering Division

RWB:s

Encl.

BALTIMORE COUNTY, MARYLAND
INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines DATE: July 17, 1989
Zoning Commissioner

FROM: Pat Keller, Deputy Director
Office of Planning and Zoning

SUBJECT: ZONING ADVISORY COMMITTEE COMMENTS

Case No. 90-2-A
Item No. 452

Re: Stephen P. Brown, et ux

The petitioner is requesting variances to allow a minimum buildable lot width of 30' in lieu of the required 55 feet. In reference to this request staff provides the following information:

- In instances such as these, staff's primary concerns are:
1. What is the impact on adjoining property?
 2. Are adequate front, side, and rear yard setbacks being provided on the site?
 3. Will the reduced lot sizes result in requests for additional variances when subsequent lot owners try to build unsuitable homes on the lots or expand homes into required areas?

It appears as if additional research needs to be conducted regarding possible setback problems with existing buildings. A deficient rear yard setback will be created for the existing dwelling which faces German Hill Road on the petitioner's site. Additionally, the 30 foot front setback for the proposed dwelling is insufficient to meet front average setback requirements. A minimum setback of 35 feet is required.

Based upon the information provided and analysis conducted, staff recommends that if the request is granted, the following conditions be attached:

- All building setback lines (front, side, rear) shall be shown on the site plan and recorded by the applicant on the deed of record. Furthermore, a statement shall be attached to the site plan which clearly states that all development shall conform to the setbacks as shown and additional variances shall not be granted for setbacks on the subject property.
 - Any applications for building permits shall include a copy of the site plan and the Commission's "Findings of Fact and Conclusion of Law" provided by the applicant.
 - A landscape plan showing adequate buffer and streetscape should be reviewed and approved by the County Landscape Planner for all lots involved in this subdivision prior to issuance of building permits.
- a:71989, t:1 14-2

PLEASE PRINT CLEARLY

PROTESTANT(S) SIGN-IN SHEET

NAME	ADDRESS
FRANK J. TURK	1203 BETHLEHEM AVE
JOHN M. GUNNAR	7000 GERMAN HILL RD
JOHN J. JOSEPH	67 NORTON RD
WILMA WOLFFCHOWSKI	1505 DELVALE AVE (C4112)

Baltimore County
Zoning Commissioner
Office of Planning and Zoning
Towson, Maryland 21204
(301) 887-3333

J. Robert Haines
Zoning Commissioner

December 5, 1989

Donald P. Haines
County Engineer

Mr. John M. Gummer
7000 German Hill Road
Baltimore, Maryland 21222

RE: Petition for Zoning Variance
W/S 51st Street, 144.7' N of German Hill Road
(4724 51st Street)
12th Election Dist. 1 - 7th Councilmanic District
Stephen P. Brown, et ux - Petitioners
Case No. 90-2-A

Dear Mr. Gummer:

In response to your letter dated November 12, 1989 on the above-captioned matter, the following comments are offered:

Please be advised that the testimony presented at the hearing and the evidence contained in the file indicate that the subject property is known as 724 51st Street. With respect to the permits issued for the Santoni's store, it is unlikely the County will use the original permit as the Department of Permits and Licenses generally keeps records for no more than 6 years. However, you might consider reviewing the zoning map for a history of the property's zoning classification as well as any prior zoning cases. The zoning map can be viewed in Room 113 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson.

If you should have any further questions, please do not hesitate to contact this office at 887-3391 and a technician may be able to assist you over the phone. However, it is suggested that you come into the office as only limited information can be given telephonically.

Very truly yours,

[Signature]
ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

AMN:bjs
cc: file

JOHN M. G. GUMMER

INSURANCE AGENT

7000 GERMAN HILL ROAD BUNDALK MARYLAND 21222

TEL. 284 7060

November 12, 1989

Mr. Ann M. Nastarowicz
Deputy Zoning Commissioner
Case 90-2-A

I am writing to you because the Ground called 7014 German Hill Road is not on German Hill Road. It is the first lot on 51st Street.

Can you find out how he got a Permit to build the store in the first place as all the lots were residential at that time. Check dates.

There seems to be something lost in the Records. Can you give me the date he got his first Permit to build the store? I'll pay you whatever it cost you.

Respectfully,
[Signature]
John M. Gummer

P.S. Can he be made to close the store if he obtained Permit illegally?



EASTERN

CROSS ST

STREET

STREET

AVENUE

WOODROW AVE

WOODROW AVENUE

STREET

STREET

STREET

Note -
Lots - 18, 22, 23, 24, 25, 83,
84, 85, 86, 87, 88, 91, 92, 93, 94, 111,
181, 182, 190, 191, 192, 193, 194, 195, 196,
532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542,
888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900,
on this plat are not included in the survey
of HARBORVIEW PLATON

HARBORVIEW
BALTIMORE COUNTY MD
formerly
SECTION No 4 GRACELAND PARK

RESURVEYED BY
J. Spencer Howard
Civil & Consulting Engineer - Baltimore, Md.
Society of Professional Engineers